

## **LICENSING SUB-COMMITTEE No. 1**

*Thursday 28th April 2016*

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Shamim Talukder

Legal and Policy Adviser: Barry Panto  
Committee Officer: Andrew Palmer  
Presenting Officer: David Sycamore

Relevant Representations: The Metropolitan Police and one local resident.

Present: Mr Leroy Adedeji (City Inspector), Mrs Maria Johnson (Senior City Inspector), Ms Debra Silvester (Licencing Consultant on behalf of the Licensee), Mr Shabir Hussain Gillani (Designated Premises Supervisor) Mr Syed Faiz Ul Hassan Shah (Employee at the premises).

### **Review of the premises licence for 7 Seas Grocery Store (previously trading as One Nation), 332 Kilburn Lane, W9 3EF 16/02038/LIREVP**

#### **Summary of application**

An application had been made by the Westminster Licensing Authority to review the premises licence for 7 Seas Grocery Store (previously trading as One Nation), 332 Kilburn Lane, W9 3EF, which operated as an off-licence/convenience store for the sale by retail of alcohol. The sale of alcohol was permitted from Monday to Saturday – 08:00hrs to 23:00hrs and Sunday from 10:00hrs to 22:00hrs.

The application for review related to several alleged breaches of license conditions and selling alcohol past the terminal hour. Late documentation submitted to all parties reported that the premises had continued to sell alcohol after the terminal hours permitted after the review papers had been received.

An application to transfer the premises licence and to change the Designated Premises Supervisor (DPS) was submitted on 11 April 2016, but were both deemed to be invalid.

The review had been supported by the police and a local resident.

#### **Decision**

Mr Adedeji addressed the Sub-Committee on behalf of the licensing authority, and referred to the history on non-compliance at the premises.

On 7 December 2007 an application for a review of the licence was submitted by the Metropolitan Police on the grounds of the Prevention of Crime and Disorder and

Protection of Children from Harm. The main issues had had related to the sale of alcohol to a person under 18 Years of age as part of a test purchase, sales after hours and alcohol exposed for sale after the permitted hours. The decision after the hearing was that additional conditions be attached to the premises licence. Despite the Police review, the premises had continued to trade unlawfully, and the Licensee and DPS had been formally cautioned for the offence of providing licensable activities otherwise than in accordance with a Premises Licence on 6 December 2008, 2 May 2009 and 4 July 2009.

Despite the history of non-compliance, efforts had been made with the operator to ensure he was aware of his responsibilities. Further instances on non-compliance through the sale and display of alcohol after the permitted hours had been witnessed by City Inspectors on 22 May 2015, 25 May 2015 and 10 June 2015. Under caution, Mr Gillani had advised that he was the owner of the premises and the DPS, and had blamed his staff for the non-compliance. Although Mr Gillani had advised that he was aware of the Police Review, and had admitted that he had been lax in his management of the premises, three further instances of non-compliance through the display and sales of alcohol after permitted hours had been witnessed by City Inspectors on 4 July and 2 August 2015 and 23 January 2016.

In addition, a number of licence conditions had been breached, which included the licence condition relating to the installation and maintenance of CCTV; the sale of beer or cider above 5.5% alcohol by volume; the failure to ensure that alcohol was secured behind locked screens or grilles outside of permitted hours and the sales of alcohol not being supervised by a personal licence holder at all times.

A further statement had been submitted by the licensing authority regarding an inspection on 23 April 2016, this being after the date that the review application had been submitted. On that date, a test purchase of alcohol was undertaken and alcohol was sold by a Mr Shah at 23.12 when the terminal hour for the sale of alcohol was 23.00. As CCTV footage was not available for viewing on that date (as it should have been), the inspectors re-visited the premises on 26 April 2016 and noted that Mr Shah was once again serving at the counter. He was still unable to produce the CCTV footage of the incident on 23 April and indicated that he did not know how to use the system. He didn't even appear to know who the manager of the premises was and said that he did not understand the conditions attached to the licence and was unaware that a review application had been submitted.

Mr Adedeji considered Mr Gillani had been given every opportunity to comply with the conditions of the premises licence and the licensing objectives.

Ms Johnson also addressed the Sub-Committee on behalf of the licensing authority and confirmed that a transfer application and variation had been received naming Mr Syed Faiz Ul Hassan Shah as the new Licensee and DPS, but neither had been valid. Ms Johnson also commented that the authority had no expectation to trust Mr Shah in view of the ongoing problems that had occurred. Ms Silvester confirmed that Mr Sayad Miah and Mr Jawad Hussein who were the named licence holders no longer worked at the premises, which was why they were trying to transfer the premises licence and DPS to Mr Shah. In response to a request for clarification from the Sub-Committee, Ms Silvester confirmed that this was the same Mr Shah that the

City Inspectors had witnessed selling alcohol after the permitted hours on 23 April 2016.

Witness statements relating to all of the above incidents were included in the report to the Licensing Sub-Committee. All of the alleged breaches constituted a breach of sections 136 or 137 of the Licensing Act 2003 (unauthorised licensable activities and exposing alcohol for unauthorised sale).

Ms Silvester addressed the Sub-Committee on behalf of the Licensee, and confirmed that Mr Gillani understood that there had been problems and that the license should have been transferred some time ago, but he had been unwell for several years. Ms Silvester informed the Sub-Committee that Mr Shah had been working in the shop for 5 years, and had been distressed to learn that he had inadvertently sold alcohol 12 minutes after the terminal hour. Ms Silvester also informed the Sub-Committee that on a previous occasion several years ago, Mr Shah had refused to sell alcohol to a customer late at night and had been slashed with a knife, which had resulted in the attacker receiving a prison sentence.

Mr Gillani had fully realised the intention that the premises licence be revoked, so had suggested that the licence be suspended for three months to enable the broken shutters to be repaired and made fully secure so no-one could access alcohol after 23.00hrs. If the Sub-Committee was minded to suspend the premises licence for 3 months, Mr Gillani would request two weeks in which to dispose of the alcohol, after which only groceries would be sold until the suspension came to an end. Mr Gillani still wished to transfer the licence and DPS to Mr Shah, who had worked at the premises for 5 years and was considered reliable.

Ms Silvester also confirmed that high strength alcohol had not been sold at the premises for several months.

The Sub-Committee sought clarification of the training that had been given to the staff at the premises, and Ms Silvester confirmed that Mr Shah and Mr Gillani had personal licences, while other members of staff had not received training. The Sub-Committee noted that the two licence holders were not present at the hearing.

The Sub-Committee also sought clarification of how the Licensee could be trusted to comply with conditions in view of what had happened in the past, and Mr Gillani confirmed that after the three month suspension, no customers would be let into the shop after 23:00hrs, with all shop sales would be made by window service. Mrs Johnson commented that Mr Gillani had previously made this promise when being interviewed under caution in August, but had not put it into effect. A further licensing directive had been broken when CCTV records had been requested and found to be unavailable. Mrs Johnson noted that Mr Gillani had applied for the transfer of the licence and DPS, and suggested that he would still be effectively in control of the premises. Mrs Johnson also suggested that Mr Shah had little understanding of CCTV or the premises' obligations.

Having taken into account all of the evidence, supporting submissions and representations, the Sub-Committee considered the grounds upon which the application for a review of the premises licence had been made.

The Sub-Committee noted that the review in 2007 had been followed by a number of further incidents, which had led to an interview under caution in 2015. The Sub-Committee also noted the suggestion that the licence be suspended for three months while works were undertaken at the premises. In view of the evidence that had been given, the findings of the most recent inspections that had taken place and lack of availability of CCTV information, the Sub-Committee was not confident that the licence holder was a fit person to hold a premises licence or be connected with a licenced premises; and was similarly not confident that Mr Shah would be a responsible Licensee. The Sub-Committee accordingly agreed that a temporary suspension of the license would not be appropriate or proportionate, and further agreed that the premises licence should be revoked.

The Sub-Committee confirmed that the revocation would leave the licence holder or a successor open to apply for a new licence at a future date, and offered informal advice that the licensing authority would need to see evidence of an understanding of the responsibilities of a licence holder; together with evidence of very thorough training for all the people connected with the sale of alcohol on the premises, which would include staff, the DPS and the Licensee.